

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

RECEIVED

JUN 19 1997

Federal Communications Commission  
Office of Secretary

In the Matter of )  
)  
Replacement of Part 90 by Part 88 )  
to Revise the Private Land Mobile )  
Radio Services and Modify the )  
Policies Governing Them )  
)  
and )  
)  
Examination of Exclusivity and )  
Frequency Assignment Policies of )  
the Private Land Mobile Radio Services )

PR Docket No. 92-235

**COMMENTS OF AERONAUTICAL RADIO, INC., IN  
RESPONSE TO THE PETITION BY HEWLETT-PACKARD COMPANY  
FOR RECONSIDERATION AND CLARIFICATION**

Aeronautical Radio, Inc. (ARINC), by its attorneys, hereby submits its comments in response to the Petition for Reconsideration and Clarification filed by Hewlett-Packard Company (HP) in the above-captioned proceeding.<sup>1</sup> ARINC commends the Commission on the policies set forth in the *Second R&O* and urges their timely implementation.

HP requests reconsideration of the *Second R&O* for the purpose of developing a plan and clarifying issues that pertain to very low power operations in the 450-470 MHz band. However, reconsideration of the *Second R&O* would not be appropriate at this late stage of the proceeding for the following reasons:

<sup>1</sup> *Second Report & Order*, FCC 97-61 (released Mar. 12, 1997) [hereinafter "*Second R&O*"].

- The communication needs of the air transport industry require timely implementation of the regulations set forth in the *Second R&O*.
- HP has failed to establish a need for greater protection for secondary medical telemetry.
- HP has failed to demonstrate that industry consensus cannot be achieved in developing a low power operations plan.

**I. THE COMMUNICATION NEEDS OF THE AIR TRANSPORT INDUSTRY REQUIRE TIMELY IMPLEMENTATION OF THE REGULATIONS SET FORTH IN THE *SECOND R&O***

As ARINC has established in this proceeding, the air transport industry is dependent upon intensive use of private land mobile radio (PLMR) communications in and around airports and has developed efficient, low powered systems to accommodate these needs. With the growth of air transportation and the increase in the sophistication and efficiency of airline ground operations, even more intensive communication systems will be needed. Therefore, the air transport industry supports the Commission's current rulemaking efforts to increase the efficiency of use of the existing PLMR spectrum.

HP requests reconsideration of the Commission's *Second R&O* to delay access to the newly created offset channels. Such reconsideration could significantly delay implementation of much needed technological advances in airport communications and would be inappropriate at this time. The *Second R&O* sets forth specific policies that will enable the airlines to meet some of their growing airport communication needs through the more efficient and effective use of the air terminal use (ATU) spectrum.<sup>2</sup> At the same time, the Commission has also

---

<sup>2</sup> The ATU channels are those governed by Section 90.75(c)(25) of the Rules. Airline use of these channels at the nation's major airports are limited to 20 watts base and 3 watts mobile.

provided for very low power medical telemetry by permitting these devices to operate on the ATU frequencies on a secondary, non-interference basis to primary ATU communications. Together, these policies help ensure that the best possible technology will be deployed to meet demonstrated—and growing—communications needs of the air transport industry.

## **II. HP HAS FAILED TO ESTABLISH A NEED FOR GREATER PROTECTION FOR SECONDARY MEDICAL TELEMETRY**

The primary purpose of HP's Petition for Reconsideration appears to be to obtain greater protection for medical telemetry operations. ARINC does not discount the value of medical telemetry operators, or any other very low power operators. HP, however, has not explained its requirements or how the new FCC rules would impair medical telemetry.

Medical telemetry users do not require any increased protection, at least insofar as the ATU frequencies are concerned. The FCC's orders in this proceeding do not increase the interference to medical telemetry systems from ATU licensees. ATU mobiles operate at three watts or less and base stations operate at 20 watts, restricted to airports. However, former Section 90.267<sup>3</sup> permitted 2 watt mobile operation on the 12.5 kHz split channels, and all that is changed on the ATU frequencies is that the power has been increased to three watts for mobiles and 20 watts for base stations at designated airports. Elsewhere, the power is still limited to 2 watts on the mobile frequencies.

This small change will not adversely affect medical telemetry on these channels, and the new offsets to the ATU channels should now be implemented. The very low power

---

<sup>3</sup> See 47 C.F.R. § 90.267 (1994).

operations for medical telemetry have occupied channels that are 12.5 kHz apart from higher power operations and co-channel with 2 watt mobile operations. To operate in such an environment, these medical telemetry systems must have been designed to be sufficiently robust to resist interference. HP has not established any need for additional protection.

### **III. HP HAS FAILED TO DEMONSTRATE THAT INDUSTRY CONSENSUS CANNOT BE ACHIEVED IN DEVELOPING A LOW POWER OPERATIONS PLAN**

In the *Second R&O*, the Commission gave frequency coordinators six months "to develop a consensus plan for low power operations in their respective pools." *Second R&O* ¶ 63. The *Second R&O* was released in March 1997. Yet in May 1997, just *two months* later, HP unequivocally declares that "it is now clear that, at least in the absence of Commission involvement, such an industry consensus cannot be reached." HP Petition at 2. Surely, achieving consensus on a plan for very low power operations will take longer than two months.

HP argues that "unlike other situations where various coordinators effectively represent the concerns of the various industries, there is no coordinator who represents very low power medical telemetry users." HP Petition at 3. HP admits that information about "where medical telemetry operates or how intensively the band is used" is not readily available to frequency coordinators "because very low power operations are not subject to coordination requirements." *Id.* However, HP makes no mention whether it has even attempted to furnish this information. Yet, HP is willing to declare an impasse and pronounce frequency coordinators and the land mobile users as being incapable of reaching a consensus that will be

satisfactory to secondary operators. Consensus may be difficult to reach, but HP should give the process a greater opportunity to work.

If no consensus is reached, or if the "consensus" plan is not acceptable to all, the FCC has promised to review the matter. In the *Second R&O*, the Commission stated that if "a consensus regarding the establishment of a low power channel plan cannot be reached, we will *revisit* this issue." *Second R&O* ¶ 64 (emphasis added). Revisiting the issue does not necessitate reconsideration of the entire *Second R&O*. Depending on the circumstance, a separate proceeding may be more appropriate to avoid the attendant pressures of delaying implementation of the *Second R&O*. To the extent HP desires a separate 2.5 MHz allocation for medical telemetry, that request should be considered in a new rulemaking.

#### IV. CONCLUSION

The air transport industry relies heavily upon land mobile communications in and around airports to facilitate effective and timely airplane arrivals and departures and as a means for ensuring the health and safety of the traveling public. The present, established needs of the industry for more efficient use of the PLMR spectrum and increased effectiveness of ATU communications will be promoted by the policies promulgated in the *Second R&O*. As discussed above, HP's Petition fails to justify a need for reconsideration as to the ATU channels. ARINC urges the Commission to proceed with implementation of these much-needed policies.

Respectfully submitted,

AERONAUTICAL RADIO, INC.

By:

  
John L. Bartlett

Karen A. Kincaid

WILEY, REIN & FIELDING

1776 K Street, NW

Washington, DC 20006

(202) 429-7000

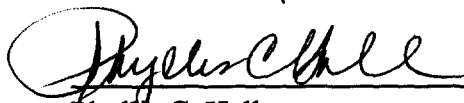
Dated: June 19, 1997

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of June, 1997, I caused copies of the foregoing  
"Comments of Aeronautical Radio, Inc., in Response to the Petition by Hewlett-Packard  
Company for Reconsideration and Clarification" to be mailed via first-class postage prepaid mail  
to the following:

Henry Goldberg  
Jonathan L. Wiener  
Goldberg Godles Wiener & Wright  
1229 19th St., NW  
Washington, DC 20036

Jonathan L. Weil, Esquire  
Senior Attorney  
Hewlett-Packard Company  
300 Minuteman Rd.  
Andover, MA 01810

  
Phyllis C. Hall